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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,863	10/25/2001	Donald Thomas McGrath	RD-27645	9978

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EXAMINER

SHINGLETON, MICHAEL B

ART UNIT

PAPER NUMBER

2817

DATE MAILED: 02/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	10

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run \_\_\_\_\_ or continues to run \_\_\_\_\_ from the date of the final rejection
- b) ☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 1-23-2003 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
  - c. ☐ They raise the issue of new matter. (See Note).
  - d. ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

See attached sheet

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☐ Upon the filing an appeal, the proposed amendment ☐ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_  
Claims objected to: \_\_\_\_\_  
Claims rejected: \_\_\_\_\_

However;

☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4. ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because \_\_\_\_\_

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☒ Other

ENC: See Attached sheet

Michael B Shingleton  
MICHAEL B SHINGLETON  
PRIMARY EXAMINER  
GROUP 1/INIT2817

Applicant adds to the claimed invention "the operational amplifier including a first NMOS depletion mode amplification stage and a second NMOS depletion mode amplification stage, the first stage and the second stage fabricated on a silicon carbide substrate" which raises new issues that would require further consideration and/or search in class 257. Furthermore, this would not place the amplification in better form for appeal by materially reducing or simplifying the issues for appeal for this amendment does not appear to overcome the art of record. Amplifier elements 114 and 20 both have NMOS transistor elements where it would have been obvious to those of ordinary skill to employ silicon carbide NMOS transistors in place thereof. Also the new issue of having these elements formed on a silicon carbide substrate does not reduce the issues for appeal for clearly forming silicon carbide elements requires a layer of silicon carbide which can be considered to be a substrate. It is possible that applicant meant that the entire device be supported on single layer of silicon carbide which also presents a new issue and does not simplify the issues for appeal and would require further search and consideration. This too does not seem to present a patentable distinction over the prior art for silicon carbide CMOS is well known and while applicant believes that the PMOS transistors of such do not operate well, silicon carbide CMOS do in fact operate. As to the arguments concerning the rejection based in part on well known art (See at least the rejection of claims 10 and 14-24.), applicant did not in the response dated 8-8-2002 seasonably traverse the well known statement and accordingly the object of the well known statement is taken to be admitted prior art (See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943)). These newly presented arguments do not simplify issues for appeal but adds issues that were not an issue at the time of the final rejection. Furthermore, presenting such arguments this late gives the examiner no opportunity to provide evidence in the next Office action (See MPEP 2144.03). These newly presented issues clearly requires further consideration on the part of the examiner and does not simplify issues for appeal. Also there is no convincing showing why the proposed amendment and remarks are necessary and were not earlier presented.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Shingleton whose telephone number is 703-308-4903. The examiner can normally be reached on Monday-Thursday from 8:00 to 4:30. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal, can be reached on (703) 308-4909. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

MBS

January 12, 2003



MICHAEL B. SHINGLETON  
EXAMINER  
MARYEL AMINES  
SUPERVISOR